

**Compliance With Statutory Requirements for  
the Disclosure of Collection Information to  
Joint Filers Cannot Be Determined**

**August 2002**

**Reference Number: 2002-40-159**

**This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.**



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

August 21, 2002

MEMORANDUM FOR COMMISSIONER ROSSOTTI

A handwritten signature in cursive script, reading "Pamela J. Gardiner".

FROM: Pamela J. Gardiner  
Deputy Inspector General for Audit

SUBJECT: Final Audit Report - Compliance With Statutory Requirements for  
the Disclosure of Collection Information to Joint Filers Cannot Be  
Determined (Audit # 200240015)

This report presents the results of our review to determine if the Internal Revenue Service (IRS) is in compliance with 26 U.S.C. § 6103(e)(8) (Supp. IV 1998) concerning the disclosure of collection information to joint filers.

Summary

The Treasury Inspector General for Tax Administration (TIGTA) could not determine if the IRS fully complied with 26 U.S.C. § 6103(e)(8) requirements for responding to written information requests from joint filers. This is the fourth year in which the TIGTA has reported its inability to give an opinion on the IRS' compliance with the provisions of 26 U.S.C. § 6103(e)(8).

The TIGTA is required under 26 U.S.C. § 7803(d)(1)(B) (Supp. IV 1998) to annually evaluate the IRS' compliance with the joint filer request provisions of the law. IRS management information systems do not separately record or monitor joint filer requests, and the Congress has not explicitly required the IRS to do so. Furthermore, the TIGTA does not recommend the creation of a separate tracking system. Accordingly, we are not making any formal recommendations in this report.

Management's Response: IRS management continues to support their determination to not develop a management control process to track joint filer information requests. In addition, the IRS plans to solicit a legislative proposal for a formal request to the Congress to consider repealing 26 U.S.C. § 7803(d)(1)(B)(Supp. IV 1998). Repealing this provision would alleviate the need for the TIGTA to annually review and certify the IRS' compliance with joint filer information requests. Management's complete response to the draft report is included as Appendix IV.

Please contact me at (202) 622-6510 if you have questions or Michael R. Phillips, Assistant Inspector General for Audit (Wage and Investment Income Programs), at (202) 927-0597.

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## Compliance With Statutory Requirements for the Disclosure of Collection Information to Joint Filers Cannot Be Determined

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### Background

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The Taxpayer Bill of Rights 2 (TBOR2)<sup>1</sup> added 26 U.S.C. § 6103(e)(8), which gives joint filer taxpayers who are no longer married or no longer reside in the same household the right to receive information regarding the Internal Revenue Service's (IRS) efforts to collect delinquent taxes on their joint return liabilities. The procedures in 26 U.S.C. § 6103(e)(8) require that the IRS provide, in writing, collection activity information to joint filers if they send in a written request. After passage of the TBOR2, the IRS Disclosure Office issued procedures which stated that if 26 U.S.C. § 6103(e)(8) is not specifically cited in the request, the IRS can provide either an oral or written response, based upon 26 U.S.C. § 6103(e)(7).<sup>2</sup>

The IRS Restructuring and Reform Act of 1998 (RRA 98)<sup>3</sup> added 26 U.S.C. § 7803(d)(1)(B) (Supp. IV 1998), which requires the Treasury Inspector General for Tax Administration (TIGTA) to review and certify annually whether the IRS is complying with the requirements of 26 U.S.C. § 6103(e)(8).

The RRA 98 required both the Department of the Treasury and the Joint Committee on Taxation (JCT) to complete separate studies of the scope and use of provisions regarding taxpayer confidentiality. The JCT issued its study report in January 2000 and recommended 26 U.S.C. § 6103(e)(8) be amended to allow for both oral and written information requests from joint filers. The Department of the Treasury issued its study report in October 2000 with a similar recommendation to eliminate the requirement that joint filer information requests be in writing. The Department of the Treasury's report also suggested that the TIGTA's reporting requirement regarding joint filer requests be phased out.

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<sup>1</sup> Pub. L. No. 104-168, 110 Stat. 1452 (1996) (codified as amended in scattered sections of 26 U.S.C.).

<sup>2</sup> 26 U.S.C. § 6103(e)(7) (1994).

<sup>3</sup> Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

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In response to a recommendation in the TIGTA's Fiscal Year 1999 audit report,<sup>4</sup> the IRS agreed to perform separate analyses by January 2001 in the former National Headquarters Collection and Customer Service functions to determine the volume of written joint filer requests received. IRS management stated that they would use the outcome of these analyses to determine if a centralized management control process was warranted to track joint filer requests.

Due to the low volume of requests identified during the Collection study, the former National Headquarters Customer Service function did not perform its analysis. In May 2001, management in the Small Business/Self-Employed and Wage and Investment Divisions<sup>5</sup> decided not to develop a new management control process to track joint filer information requests.

We performed our review in the IRS National Headquarters, the Small Business/Self-Employed and Wage and Investment Divisions, and the Office of the National Taxpayer Advocate during the months of April and May 2002. This audit was performed in accordance with *Government Auditing Standards*. Detailed information on the audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

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We could not determine if the IRS fully complied with 26 U.S.C. § 6103(e)(8) requirements when responding to all written requests from joint filers because of our inability to identify joint filer requests received nationwide. This condition occurred because the IRS' management information systems do not separately record or monitor joint filer requests. During this review, the Commissioner, Wage and Investment Division, commented that the IRS does not plan to implement a system to identify or track

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<sup>4</sup> *The Internal Revenue Service's Procedures for Responding to Written Requests for Collection Activity From Joint Filers Vary From Statutory Requirements* (Reference Number 1999-10-077, dated September 1999).

<sup>5</sup> The Small Business/Self-Employed and Wage and Investment Divisions were created by the reorganization of the IRS. Components of the former Collection and Customer Service Divisions were made part of these divisions.

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joint filer requests for information. In addition, there is no statutory or regulatory requirement for the IRS to develop a separate system that records or monitors these requests. This is the fourth year in which we have reported our inability to give an opinion on the IRS' compliance with the provisions of 26 U.S.C. § 6103(e)(8).

Management's Response: IRS management continues to support their determination to not develop a management control process to track joint filer information requests. In addition, the IRS plans to solicit a legislative proposal for a formal request to the Congress to consider repealing 26 U.S.C. § 7803(d)(1)(B) (Supp. IV 1998). Repealing this provision would alleviate the need for the TIGTA to annually review and certify the IRS' compliance with joint filer information requests.

**Detailed Objective, Scope, and Methodology**

The overall objective of this review was to assess the Internal Revenue Service's (IRS) compliance with 26 U.S.C. § 6103(e)(8) (Supp. IV 1998). To accomplish our objective, we:

- I. Obtained confirmation from the Small Business/Self-Employed and Wage and Investment Divisions that the IRS does not have nor does it plan to implement a system or process to identify or track joint filer requests for collection information relating to the requirements of 26 U.S.C. § 6103(e)(8).
- II. Interviewed personnel in the offices of the National Taxpayer Advocate, the IRS Commissioner's Executive Control and Management System, and the Treasury Inspector General for Tax Administration to determine if there is a system or process that tracks taxpayer complaints relating to the requirements of 26 U.S.C. § 6103(e)(8).



**Major Contributors to This Report**

Michael R. Phillips, Assistant Inspector General for Audit (Wage and Investment Income Programs)

Augusta R. Cook, Director

Bryce Kisler, Audit Manager

Lynn Faulkner, Senior Auditor

Kristi Larson, Senior Auditor

Vacenessia Daniels Brown, Auditor

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**Appendix III**

**Report Distribution List**

Deputy Commissioner N:DC  
Commissioner, Small Business/Self-Employed Division S  
Commissioner, Wage and Investment Division W  
Director, Compliance, Small Business/Self-Employed Division S:C  
Director, Compliance, Wage and Investment Division W:CP  
Director, Customer Account Services, Small Business/Self-Employed Division S:CAS  
Director, Customer Account Services, Wage and Investment Division W:CAS  
Director, Strategy and Finance W:S  
Chief, Customer Liaison S:COM  
Chief Counsel CC  
National Taxpayer Advocate TA  
Director, Legislative Affairs CL:LA  
Director, Office of Program Evaluation and Risk Analysis N:ADC:R:O  
Office of Management Controls N:CFO:F:M  
Audit Liaisons:  
    Executive Assistant, Director, Communications and Liaison CL  
    Director, Compliance, Small Business/Self-Employed Division S:C  
    Director, Compliance, Wage and Investment Division W:CP  
    Director, Customer Account Services, Small Business/Self-Employed Division S:CAS  
    Director, Customer Account Services, Wage and Investment Division W:CAS

# Compliance With Statutory Requirements for the Disclosure of Collection Information to Joint Filers Cannot Be Determined

Appendix IV

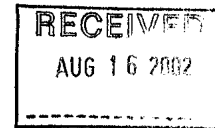
## Management's Response to the Draft Report



CHIEF COMMUNICATIONS  
AND LIAISON

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

August 15, 2002



MEMORANDUM FOR PAMELA J. GARDINER  
DEPUTY INSPECTOR GENERAL FOR AUDIT

From: David R. Williams *[Signature]*  
Chief, Communications and Liaison

Subject: Draft Audit Report: Compliance With Statutory  
Requirements for the Disclosure of Collection Information to  
Joint Filers Cannot Be Determined (Audit #200240015)

I have reviewed your Draft Audit Report requiring the Treasury Inspector General for Tax Administration (TIGTA) to review and certify annually whether the Internal Revenue Service (IRS) is complying with the requirements of 26 U.S.C section 6103(e)(8). In order to determine compliance, TIGTA must review written requests and IRS' responses. Because we did not have the capacity to readily retrieve these documents, we explored the possibility of developing a tracking system for joint filers. In FY 2000, the IRS former National Headquarters Collection and Customer Service functions performed a six-month study on the volume of written requests. Based on the results of that study, IRS management made a business decision not to develop a tracking system because of the small number of identified requests – a decision consistent with your statement that you do not recommend we create a separate management system.

In May 2001, IRS senior management in the Wage and Investment and Small Business/Self Employed Operating Divisions decided that we would not develop a new management control process to track joint filer information requests. They made this decision because of the low volume of requests received and the fact that individuals may request and receive the very same information under IRC section 6103(e)(7). The IRS management continues to support this determination, as it has in the last three audits on this matter.

I realize conducting this recurring audit places a burden on both of our staffs. I have instructed the Director, Legislative Affairs to solicit a legislative proposal for a formal request to the Congress to consider repeal of 26 U.S.C. section 7803(d)(1)(B) (Supp. IV 1988). Repealing this provision would alleviate the need for TIGTA to annually review and certify compliance with joint filer information requests. I hope the Congress will see the value of this proposal.

I appreciate your support for the proposed plan of action. If you have any questions or concerns, please contact me at (202) 622-5440.